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Kilpatrick Townsend & Stockton LLP/ Amazon, Inc Eighth Floor, Two Embarcadero Center San Francisco, CA 94111				UBER, NATHAN C
ART UNIT		PAPER NUMBER		
3622				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/437,815	BEZOS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	NATHAN C. UBER	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 June 2012.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5,7-9,31-36,41-55 and 75-105 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5,7-9,31-36,41-55 and 75-105 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION****Status of Claims**

1. This action is in reply to the amendments filed on 21 June 2012.
2. Claims 6, 10-30, 37-40, 56-74 and 106 were previously canceled.
3. Claims 1, 2-5, 7, 9, 45, 75, 76, 78, 82, 91, 92, 94, 95, 101 and 102 were amended.
4. Claims 1-5, 7-9, 31-36, 41-55 and 75-105 are currently pending and have been examined.

**Claim Rejections - 35 USC § 112**

5. The following is a quotation of 35 U.S.C. 112(a):

(a) IN GENERAL.—The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor or joint inventor of carrying out the invention.

The following is a quotation of 35 U.S.C. 112 (pre-AIA), first paragraph:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1-55, 78, 91-100 and 102 are rejected under 35 U.S.C. 112(a) or 35 U.S.C. 112 (pre-AIA), first paragraph, as failing to comply with the written description requirement. The claims contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor or a joint inventor, or for pre-AIA the inventors, at the time the application was filed, had possession of the claimed invention. Claims 1, 45, 91, 92 disclose the limitation “rank” generally indicating a bid/normalized bid for a particular rank. There is no support in the original disclosure for the concept of “rank.” Especially with respect to normalized or normalizing bids, the original disclosure was only concerned with allocating display space and was silent with respect to ranks. Further claims 78 and 102 discloses normalized bids “generated on demand” there is no support in the original disclosure for this limitation. Further claim 95 discloses generating a normalized bid “in response to a request to score the advertising plan” there is no support in the original disclosure for this limitation.

**35 USC § 103 Rejections**

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5, 45-50, 55, 75, 78-81, 87-89, 91, 93-99, 101 and 103-105 are rejected under 35 U.S.C. 103(a) as obvious over Roth (U.S. 6,285,987) in view of Davis et al. (U.S. 6,269,361) and in view of Carlton-Foss (U.S. 6,647,373 B1). Davis et al teaches ad opportunities that each call for include plural, targeted ads that are to be placed on the page according descending bid amounts [abstract, 13:18-25, 18:11-18]. It would have been obvious to one of ordinary skill at the time of the invention to have auctioned ad opportunities using the system of Roth et al whereby plural winning ads are selected in a manner as taught by Davis et al (see at least figure 7). This would increase advertising revenue. Any of the second or lower-placed ads correspond to selected bids other than the highest bid. With respect to normalized bids, Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids (see at least column 11, lines 21-54), but that normalizing may be accomplished by various *known* calculations. It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

- a. Regarding claims 1, 55, 75, 93 and 101, Roth et al teaches advertisers who submit ads over a network for future advertising opportunities. The bids specify an amount to pay to show an ad to a viewer having particular characteristics and on a website that meets a set of criteria [abstract]. When a website with advertising to be shown is requested, an ad opportunity is

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created. The system then normally chooses the highest bid from all submitted bids that meet the criteria for the display opportunity (user characteristics and type of requesting site). The associated ad is then delivered and displayed to the user at the browser [col 5 lines 29-45]. Roth et al teaches that each ad plan/campaign specifies a number of ads to be shown during a period of time (exposure) [col 8 lines 3-5]. Roth et al also teaches an optimization method [col 8 lines 32-40] that attempts to "maintain the level of buying" to ensure the number of ad impressions is reached during the allotted time period. This method addresses the situation where a particular ad is not being selected frequently enough; an ad that is under-achieving and is below the optimum "level of buying" will be influenced to be selected over other ad bids. Roth et al achieves this by dynamically and artificially adjusting the bid amount upward to help ensure the ad is selected and help reach the optimum level of buying. Similarly, for an ad that is being selected too often and has a level of buying too high, the selection process is influenced to avoid choosing the ad in order to lower/restores the (optimum) level of buying. Roth et al achieves this by dynamically and artificially adjusting the bid amount downward to assist in avoiding the over-achieving ad, tending to result in other ads being chosen. The system of Roth et al receives bid amounts set by the advertisers (proposed bid - col 8 lines 44-46]). In certain circumstances, the bid selection logic changes the bids in order to slow down or speed up the impression rate of a particular ad so that the ad selection process may be influenced to "maintain the (optimum) level of buying." The system-controlled changes to advertiser's proposed bids are considered to be functionally equivalent to applicant's selection procedure based on bid and likelihood that an ad's specified number of impressions will be met. In the case where an under-achieving ad is influenced enough by the optimization process so as to be selected over a higher, competing proposed bid, the ad process can be said to have selected a proposed bid that is not the highest. System-increase of a low proposed bid so that the ad gets chosen is taken to be functionally the same as selecting a lower bid for an under-achieving ad. However, it would have been obvious to one of ordinary skill at the time of the invention for the system to have not manipulated the proposed bids at all, but merely choose the ads which need to increase their impression rate in order to maintain the level of buying, even if lower-bid ads must be selected. Further still, Official

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Notice is taken that an auction system that charges the winning bidder the price of the second-highest bid is a well known type of auction, known as a "Vickrey Auction" - named after its creator, the economist William Spencer Vickrey (1914-1996). It would have been obvious to one of ordinary skill to have taken the winning ad and charged the associated advertiser a price of a lower bid.

- b. Regarding claims 2 and 46, the selection of winning bid is performed after the ad request/opportunity.
- c. Regarding claims 3, 4, 47, 48 and 80, user demographics and time/date are used to specify and target bids. The selecting among the qualifying bids is therefore based on such criteria [col 14 lines 9-37].
- d. Regarding claims 5, 49 and 81, Roth et al teaches targeting the ads according to site keywords [col 14 lines 9-22] as well as page category/content [col 1 lines 50-53] and type of page [col 5 line 40].
- e. Regarding claim 45, the bids/bid agents/bid criteria are stored in an orderly fashion in the system so as to associate the bids with the advertiser and related ad; this represents inherent storage in a database of some type. Roth et al also teaches a log and billing function so that ad placements are noted and the advertisers billed [col 12 lines 39-40].
- f. Regarding claim 75 and 91, revenue can be said to be maximized because under-achieving ads will be sold and other (losing) ads with similar bids have opportunity to be sold later in their campaign.
- g. Regarding claims 87-89 and 97-99, the bids inherently represent the intentions/strategy of the advertiser. They plan to display ads on the types of pages and for the types of users specified in the criteria. Roth et al teaches that the ads be targeted to web page category/"type of page" as well as user characteristics. Such targeting criteria is inherently based on a correlation of such information to the types of ads to be presented. The advertiser inherently is seeking ad placement for items where the content/category of the page is related to the item being advertised. Roth et al also teaches targeting ads to users who have accessed certain types or categories of information [col 4 lines 63-67]. The Viewer History Data (viewing history,

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purchases, click through, etc) also provides an element for targeting [col 8 lines 65-67].

**Claim 50:** (depending from affirmed claim 45) (system)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Further, Roth, as shown, discloses the following limitation:

- *associated with each bid a requested number of advertisements to be placed within a specified time period, and wherein bids are selected in part on a likelihood that the requested number of advertisements associated with the bid will be placed within a specified time period* (see at least columns 8, 10 and 14, lines 3-4, 22-27 and 50-64 respectively, Roth discloses an advertisement plan parameter called 'exposure' which is a number of impressions for each ad, Roth also discloses a calculated value called 'VL' or 'views left' which is the exposure count remaining, these two parameters are part of the algorithm used to determine whether to select an ad for submission to the view server, Roth also discloses submitting advertiser's budget information along with bids; see also at least column 13 and 14, lines 41-44 and 26 respectively, Roth discloses that serving parameters for a particular ad may include a restriction such as a time of the day or the time of a week that the ad may be presented; therefore Roth discloses a requested number of ads/views, placed within a specified period associated with a bid and selecting the bids by matching the view-op characteristics with the bid parameters as claimed; see also at least column 8, lines 49-51, reach, the total number of unique viewers the advertiser wants to reach with the ad buy, can't exceed the total exposure), (Examiner interprets this claim as being performed by a computer)

Examiner notes in reversing the previous rejection of this claim the BPAI indicated that "Examiner made no findings at all" with respect to this claim. The BPAI did not hold that the combination Roth/Davis failed to teach this limitation, rather that Examiner failed to set forth any prior art rejection of these claims. The current rejection relying on the

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Roth/Davis combination therefore is a new rejection that neither Applicant nor the BPAI had an opportunity to consider.

**Claim 78:** (depending from affirmed claim 75)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *dynamically generating a normalized bid amount for at least some of the advertising plans, each normalized bid amount generated on demand, and wherein the selecting selects the identified advertising plan with the highest normalized bid amount* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations),  
(Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 79:** (depending from claim 78)

The combination Roth/Davis/Carlton-Foss discloses the limitations as shown in the affirmed rejection above. Although Roth discloses different bid levels and circumstances

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where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of web page instances* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 94:** (depending from affirmed claim 91)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *generating a normalized bid amount for at least some of the identified advertising plans and wherein the selecting selects the identified advertising*

*plan with the highest normalized bid amount for the rank* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 95:** (depending from claim 94)

The combination Roth/Davis/Carlton-Foss discloses the limitations as shown in the affirmed rejection above. Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *wherein the normalized bid amount is generated dynamically in response to a request to score the advertising plan* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids as they are received, i.e. dynamically), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in

the manner or manners discloses by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with "the financial evaluation of the bid" (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 96:** (depending from claim 94)

The combination Roth/Davis/Carlton-Foss discloses the limitations as shown in the affirmed rejection above. Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *wherein the normalized bid amount for an advertising plan factors in the likelihood that the advertisement will be included on a requested number of display page instances* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations),  
(Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners discloses by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with "the financial evaluation of the bid" (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were

predictable.

**Claim 104:** (depending from affirmed claim 101)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Further, Roth, as shown, discloses the following limitation:

- *wherein a provided bid includes a requested number of web page instances on which the advertisement is to be placed during a time period* (see at least column 8, lines 3-4 and 49-51, Roth discloses an advertisement plan parameter called 'exposure' which is a number of impressions for each ad, Roth also discloses a parameter called 'reach,' which is the total number of unique viewers the advertiser wants to reach with the ad buy, can't exceed the total exposure; see also at least columns 10, lines 22-27, Roth discloses a calculated value called 'VL' or 'views left' which is the exposure count remaining, these two parameters are part of the algorithm used to determine whether to select an ad for submission to the view server; see also at least column 14, lines 15-16, site list, a list of websites the ad is requested to appear on, i.e. a requested number of web page instances; see also at least column 13 and 14, lines 41-44 and 26 respectively, Roth discloses that serving parameters for a particular ad may include a restriction such as a time of the day or the time of a week that the ad may be presented; therefore Roth discloses a requested number of ads/views, placed within a specified period),

Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *the normalized bid amount for a bid is generated based on the bid amount and likelihood that the advertisement will be placed on the requested number*

*of web page instances during the time period* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**9.** Claims 7, 8, 31-35, 41-43, 51, 52 and 82-86 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al and Davis et al, Carlton-Foss (U.S. 6,647,373 B1) and further in view of Copple et al (US6178408). Roth et al teaches bidding a “price or amount” [abstract], but does not teach the use of “points”. Copple et al teaches methods for accumulating “points” for participating in and making purchases over the Internet, for example [col 4 lines 6-11]. These points can then be used to bid on auctions of value. It would have been obvious to one of ordinary skill at the time of the invention to have enabled the advertising bidders of Roth et al to bid with any type of currency or value such as reward points for making transactions. It would have been obvious to one of ordinary skill at the time of the invention to have awarded points for any type of commercial transaction including transactions related to online-auctions so as to encourage a wide range of user-compensated-activity.

h. Regarding claims 41-43, the bids inherently represent the intentions/strategy of the advertiser. They plan to display ads on the types of pages and for the types of users specified in the criteria. Roth et al teaches that the ads be targeted to web page category/“type of page” as well as user characteristics. Such targeting criteria is inherently based on a correlation of such

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information to the types of ads to be presented. The advertiser inherently is seeking ad placement for items where the content/category of the page is related to the item being advertised. Roth et al also teaches targeting ads to users who have accessed certain types or categories of information [col 4 lines 63-67]. The Viewer History Data (viewing history, purchases, click through, etc) also provides an element for targeting [col 8 lines 65-67].

**10.** Claims 9 and 53 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al and Davis et al, Carlton-Foss (U.S. 6,647,373 B1) further in view of Copple et al and Goldhaber et al (US5794210). Copple et al does not teach receiving rewards/points for clicking through one web page to another. Goldhaber et al however teaches such an idea as "negative pricing of information". Users are rewarded for clicking from one web page to another [col 7 lines 47-55]. It would have been obvious to one of ordinary skill at the time of the invention to have rewarded users who perform these actions with points useable in an online auction for ad placements.

**11.** Claims 44, 90 and 100 are alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al and Davis et al, Carlton-Foss (U.S. 6,647,373 B1) further in view of Copple et al and Bates et al (US6339438). Roth et al does not teach targeting/selecting an ad if the item advertised competes with the content in the display space. Bates et al however, teaches to target or select a competitor's product advertisement based on the contents of the browser window, such as when it displays competitive items [col 7 lines 59-65]. It would have been obvious to one of ordinary skill at the time of the invention to have targeted ad placement/selection according to whether the ad space displayed a competitor's offerings, so that the ad can be tightly related and relevant to the displayed user-requested information.

**12.** Claim 36 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al and Davis et al, Carlton-Foss (U.S. 6,647,373 B1) further in view of Copple et al and Tulskie, Jr et al (US6249768). Copple et al does not teach receiving rewards/points for providing web page links for others to select. However, Tulskie, Jr et al teaches compensation for a user to provide referring links to an entity who rewards such activity [col 8 lines 14-17]. It would have been obvious to one of ordinary skill at the time of the invention to have rewarded such link referral with the reward point and auction system of Copple et al/Roth et al so that users can earn more points for various activities.

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**13.** Claim 54 is alternatively rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al and Davis et al, Carlton-Foss (U.S. 6,647,373 B1) further in view of Copple et al and Eldering (US6324519). While Roth et al teaches varying the bid amounts based on number of impressions or based upon user history [col 2 lines 31-41], there is no teaching for varying according to the degree which the ad criteria matches the page content. Eldering also teaches selecting targeted ads for websites based upon bidding auctions [col 12 lines 9-26]. Eldering also teaches providing a bid and target criteria. Column 10 lines 37-41 teach that the bid amount varies according to the degree of correlation between advertiser specified criteria and the opportunity characteristics. It would have been obvious to one of ordinary skill at the time of the invention to have employed variable bid amounts by advertisers of Roth et al based on the degree of correlation between the advertisers criteria of "type of page"/page category (content), so that advertisers who are willing to pay more for better opportunities can do so.

**14.** Claims 76, 77 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth (U.S. 6,285,987) in view of Davis et al. (U.S. 6,269,361) in view of Carlton-Foss (U.S. 6,647,373 B1) and in view of Walker et al. (U.S. 6,324,520 B1).

**Claim 76:** (depending from affirmed claim 75) (method)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Further Roth, as shown, discloses the following limitation:

- *a requested number of advertisement placements* (see at least column 8, lines 3-4 and 49-51, Roth discloses an advertisement plan parameter called 'exposure' which is a number of impressions for each ad, Roth also discloses a parameter called 'reach,' which is the total number of unique viewers the advertiser wants to reach with the ad buy, can't exceed the total exposure; see also at least columns 10, lines 22-27, Roth discloses a calculated value called 'VL' or 'views left' which is the exposure count remaining, these two parameters are part of the algorithm used to determine whether to select an ad for submission to the view server),

Although Roth discloses various time-limited features associated with the ad buys, including daypart/weekpart to display the ad (column 14, line 26) and a time limit for the

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bidding agent to submit a bid for a matching view-op (column 7, lines 26-33), as well as ad budgets (column 14, lines 60-64) and other constraints that might serve to terminate/complete an ad-buy/bid such as expected exposure, reach (column, 8, lines 3-4 and 49-51) and the "views left" determination (column 10, lines 26-27), Roth does not specifically disclose an "end time." However, Walker, as shown, demonstrates that it is well known in the advertising art to terminate an ad plan with a parameter such as "end time" because ads are necessarily related to the underlying products/services and are often additionally associated with a particular season, a time-limited sale or other time-limited features. Walker, as show, demonstrates an ad plan associated with vending machine products that have a known expiration date, therefore the "end time" for the ad associated with the product is the same as the "expiration date" of the product:

- *each advertising plan has an end time* (see at least column 7, lines 10-12, suggestive sell functions and data are advertisements that are presented after the machine reviews its inventory; see also at least column 7, lines 30-65, each product has associated advertisements, substitute product associations and product expiration dates, the ads are presented after a determination of demand and/or approaching expiration),
- *wherein the selecting selects an advertisement plan with a lower original bid amount that is near its end time rather than an advertisement plan with a higher bid amount that is not as near its end time* (see at least column 7, lines 30-65, each product has associated advertisements, substitute product associations and product expiration dates, the ads are presented after a determination of demand and/or approaching expiration, the criteria for selecting an ad may be related to a demand threshold, or alternatively despite the inventory and demand for a product, the system may determine that a product is about to expire and advertise that product to attempt to sell all remaining products, i.e. achieve the intended 'reach' for the particular product), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to enhance the advertising methods disclosed by Roth and Davis by adding an end-time to ad plan parameters/specifications and bids as disclosed by Walker such that the Roth and Davis system will additionally consider whether an ad is expired or expiring when matching view-ops to bids because Walker demonstrates the concept of time-related expiration of advertisements (at least in the example of ads for expiring products) as well as the marketing concept of attempting to move inventory before an expiration and since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**Claim 77:** (depending from claim 76)

The combination Roth/Davis/Walker discloses the limitations as shown in the affirmed rejection above. Further, Roth, as shown, discloses the following limitation:

- *each advertising plan includes a requested number of web page instances on which to place advertisements and wherein the selecting factors in the number of the requested number of web page instances on which advertisements have been placed* (see at least columns 8, 10 and 14, lines 3-4, 22-27 and 50-64 respectively, Roth discloses an advertisement plan parameter called 'exposure' which is a number of impressions for each ad, Roth also discloses a calculated value called 'VL' or 'views left' which is the exposure count remaining, these two parameters are part of the algorithm used to determine whether to select an ad for submission to the view server, Roth also discloses submitting advertiser's budget information along with bids, therefore Roth discloses a requested number of ads/views associated with the bid and selecting the bids by matching the view-op characteristics with the bid parameters as claimed; see also at least column 8, lines 49-51, reach, the total number of unique viewers the advertiser wants to reach with

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the ad buy, can't exceed the total exposure), (Examiner interprets this claim as being performed by a computer)

Examiner notes in reversing the previous rejection of this claim the BPAI indicated that "Examiner made no findings at all" with respect to this claim. The BPAI did not hold that the combination Roth/Davis failed to teach this limitation, rather that Examiner failed to set forth any prior art rejection of these claims. The current rejection relying on the Roth/Davis combination therefore is a new rejection that neither Applicant nor the BPAI had an opportunity to consider.

**Claim 92:** (depending from affirmed claim 91) (system)

The combination Roth/Davis discloses the limitations as shown in the affirmed rejection above. Further Roth, as shown, discloses the following limitation:

- *a requested number of advertisement placements* (see at least column 8, lines 3-4 and 49-51, Roth discloses an advertisement plan parameter called 'exposure' which is a number of impressions for each ad, Roth also discloses a parameter called 'reach,' which is the total number of unique viewers the advertiser wants to reach with the ad buy, can't exceed the total exposure; see also at least columns 10, lines 22-27, Roth discloses a calculated value called 'VL' or 'views left' which is the exposure count remaining, these two parameters are part of the algorithm used to determine whether to select an ad for submission to the view server),

Although Roth discloses various time-limited features associated with the ad buys, including daypart/weekpart to display the ad (column 14, line 26) and a time limit for the bidding agent to submit a bid for a matching view-op (column 7, lines 26-33), as well as ad budgets (column 14, lines 60-64) and other constraints that might serve to terminate/complete an ad-buy/bid such as expected exposure, reach (column 8, lines 3-4 and 49-51) and the "views left" determination (column 10, lines 26-27), Roth does not specifically disclose an "end time." However, Walker, as shown, demonstrates that it is well known in the advertising art to terminate an ad plan with a parameter such as "end

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time" because ads are necessarily related to the underlying products/services and are often additionally associated with a particular season, a time-limited sale or other time-limited features. Walker, as shown, demonstrates an ad plan associated with vending machine products that have a known expiration date, therefore the "end time" for the ad associated with the product is the same as the "expiration date" of the product:

- *each advertising plan has an end time* (see at least column 7, lines 10-12, suggestive sell functions and data are advertisements that are presented after the machine reviews its inventory; see also at least column 7, lines 30-65, each product has associated advertisements, substitute product associations and product expiration dates, the ads are presented after a determination of demand and/or approaching expiration),
- *wherein the selecting selects an advertisement plan with a lower bid amount for the rank that is near its end time rather than an advertisement plan with a higher bid amount for the rank that is not as near its end time* (see at least column 7, lines 30-65, each product has associated advertisements, substitute product associations and product expiration dates, the ads are presented after a determination of demand and/or approaching expiration, the criteria for selecting an ad may be related to a demand threshold, or alternatively despite the inventory and demand for a product, the system may determine that a product is about to expire and advertise that product to attempt to sell all remaining products, i.e. achieve the intended 'reach' for the particular product), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to enhance the advertising methods disclosed by Roth and Davis by adding an end-time to ad plan parameters/specifications and bids as disclosed by Walker such that the Roth and Davis system will additionally consider whether an ad is expired or expiring when matching view-ops to bids because Walker demonstrates the concept of time-

related expiration of advertisements (at least in the example of ads for expiring products) as well as the marketing concept of attempting to move inventory before an expiration and since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

**15.** Claim 102 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roth (U.S. 6,285,987) in view of Carlton-Foss (U.S. 6,647,373 B1).

**Claim 102:** (independent claim)

Roth, as shown, discloses the following limitation:

- *providing bids from advertisers each bid indicating a bid amount and an advertisement* (see at least the abstract, the bids specify an amount to pay to show an ad to a viewer having particular characteristics and on a website that meets a set of criteria),
- *receiving a request to provide the web page instance to a user, the web page instance including a display space slot* (see at least the abstract, When a website with advertising to be shown is requested, an ad opportunity is created),
- *placing the advertisement of the bid with the highest normalized bid amount in the display space slot of the web page instance wherein the bid with the highest normalized bid is not the bid with the highest bid amount* (see at least column 5, lines 29-45, the ad is then delivered and displayed to the user at the browser),
- *charging the source of the bid with the highest normalized bid amount the amount indicated by the bid with the highest normalized bid amount* (see at least the abstract, the bids specify an amount to pay to show an ad to a viewer having particular characteristics and on a website that meets a set of criteria),

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Although Roth discloses different bid levels and circumstances where a bid amount may change for a particular ad and selecting the highest bid as the winning bid and preparing the ads when a web pages is requested (i.e. upon demand) (see at least column 46-63), neither Roth nor Davis specifically discloses normalizing bids as claimed. However, Carlton-Foss, as shown, discloses the old and well known technique of normalizing bids:

- *generating each normalized bid amount on demand for the provided bids whose advertisements are eligible to be placed on the web page instance wherein placing the advertisement of the bid with a highest normalized bid amount in the display space slot of the web page instance is anticipated to maximize overall revenue and reduce the display slot revenue for the web page instance* (see at least column 11, lines 21-54, here Carlton-Foss discloses not only that the Carlton-Foss invention normalizes bids, but that normalizing may be accomplished by various *known* calculations), (Examiner interprets this claim as being performed by a computer)

It would have been obvious to a person having ordinary skill in the art at the time of the invention to normalize received bids, such as the bids received in the Roth process, in the manner or manners disclosed by Carlton-Foss because Carlton-Foss explains that normalizing the bids may help with “the financial evaluation of the bid” (column 11, lines 25-26) and since the claimed invention is merely a combination of old elements (i.e. the technique of normalizing bids with a bidding method), and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

### **Response to Arguments**

**16.** Applicant's arguments filed 21 June 2012 have been fully considered but they are not persuasive. Applicant argues that amending the bids of claim 1 to “normalized bids” effectively “removes the ability of Davis to meet the limitation” (see page 15 of Applicant's remarks). Examiner disagrees. With respect to

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the limitation “normalized bids,” Examiner does not believe (in view of prior art such as Carlton-Foss) that Applicant invented the concept of “normalized bids” nor that employing normalized bids is non-obvious. The fact remains that the combination of Roth and Davis discloses the step of selecting bids including bids that are not the highest bids – and the combination Roth Davis and Carlton-Foss render obvious the selection of, specifically, normalized bids. Accordingly, Roth and Davis are maintained with respect to the limitation of selecting bids that are not the highest as noted above.

**17.** With respect to the applicability of the Carlton-Foss disclosure to the limitation (claims 1 and 95) “dynamically normalizing the bids...” Applicant argues that the Carlton-Foss disclosure does not satisfy “dynamically” element of the limitation because “Carlton-Foss requires all of the bids to “calculate a number normalized to a range”” (see page 16 of Applicant’s remarks). Applicant’s argument assumes that “dynamically” is interpreted to mean something other than the process disclosed by Carlton-Foss, – however Applicant fails to indicate a definition, or a limiting disclosure in Applicant’s specification, or even a hint of what “dynamically” adds to the claim. In fact as far as Examiner can deduce from the specification, dynamically appears to mean as a web page is being loaded (see at least page 25 of the specification indicating that “display space of the web pages can be allocated in advance rather than dynamically when the web page is being generated”). Accordingly whether normalizing occurs as the page is being loaded or ahead of time fails to distinguish the claimed normalizing over the normalizing disclosed by Carlton-Foss. “Dynamically” does not mean that all of the bids may not be present as Applicant suggests. This argument is therefore not persuasive that the claimed invention is patentable over the prior art. The claimed invention is obvious as indicated in the maintained rejection above.

**18.** With respect to Applicant’s argument that the Roth, Davis and Carlton-Foss references cannot be combined because they are incompatible is not persuasive. The rejection above indicates the state of the art at the time of the invention – and thus what would have been known to one having ordinary skill in the art and therefore obvious to employ in a similar endeavor. Applicant’s hypothetical combination of various elements fails to persuade Examiner that Applicant’s invention overcomes the prior art of record. For example Applicant’s nominal amendment changing the previously claimed bid (taught by Roth and Davis) to a normalized bid is obvious for two reasons: 1) the functions, which are the subject of the claims, are the same despite the label change from bid to normalized bid, thus no technology or process is

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distinguished, 2) normalized bids – or normalizing bids, or using normalized bids - was not novel or non-obvious at the time of Applicant's invention as Carlton-Foss demonstrates. Whether or not there are additional features of Carlton-Foss's disclosure that achieve a different purpose or function than the purposes or functions of Davis or Roth has no impact on the fact that Carlton-Foss renders obvious the concept of normalizing bids and using normalized bids. Applicant's argument against "combining" the references is not persuasive and not applicable or responsive to the rejection. The rejection combines concepts taught by the references – it does not combine the references in the manner Applicant argues.

**19.** With respect to claim 102 Applicant argues that although Roth discloses generating bids and ads upon a user demand of a web site, because Examiner relies on Carlton-Foss to teach the concept of a "normalized bid" neither Ross nor Carlton-Foss can be relied upon to teach the claimed invention of normalizing a bid on demand (never mind that there is no original support for this limitation) (see page 18 of Applicant's remarks). Examiner is not persuaded. The combination of references discloses the claimed subject matter. The "on-demand" feature is certainly disclosed by Roth (and Davis) accordingly, and Carlton-Foss demonstrates that "normalized bids" or normalizing bids was known in the art and preferred for various reasons. Accordingly, contrary to Applicant's contention, the amendments to claim 102 (and similar amendments to claim 78) do not overcome the prior art of record. The rejection is maintained above.

### Conclusion

**20.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

**21.** A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX

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MONTHS from the date of this final action.

**22.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 8:30am-4:00pm EST. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, **Eric Stamber** can be reached at **571.272.6724**.

**23.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

**24.** Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**  
**P.O. Box 1450, Alexandria, VA 22313-1450**

or faxed to **571-273-8300**.

**25.** Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building  
401 Dulany Street  
Alexandria, VA 22314.

/NATHAN C UBER/  
Primary Examiner, Art Unit 3622